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SPACE EXPLORATION TECHNOLOGIES CORP.
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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14

15 NML CAPITAL, LTD.,
16 Plaintiff,
17 v.
18 SPACE EXPLORATION
19 TECHNOLOGIES CORP., et al.,
20 Defendants.
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Case No. CV 14-02262-SVW (Ex)

*[Assigned to the Hon. Stephen V.
Wilson]*

**SPACE EXPLORATION
TECHNOLOGIES
CORPORATION'S NOTICE OF
MOTION AND MOTION TO
DISMISS, AND NOTICE OF
JOINDER IN THE REPUBLIC OF
ARGENTINA'S MOTION TO
DISMISS PURSUANT TO
FEDERAL RULES OF CIVIL
PROCEDURE 12(b)(1), AND
12(b)(6)**

Date: June 30, 2014
Time: 1:30 p.m.
Ctrm: 6

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF**
 2 **RECORD, PLEASE TAKE NOTICE THAT** on June 30, 2014 at 1:30 p.m., or as
 3 soon thereafter as the matter may be heard in Courtroom 6 of the above-entitled
 4 Court, located at 312 North Spring Street, Los Angeles, CA 90012-4701, defendant
 5 Space Exploration Technologies Corporation (“SpaceX”) will and hereby does
 6 move this Court to dismiss NML Capital, Ltd.’s (“NML”) Complaint with
 7 prejudice pursuant to Federal Rules of Civil Procedure 12(b)(1), and 12(b)(6). In
 8 doing so, SpaceX hereby joins in and adopts defendant The Republic of
 9 Argentina’s (“Argentina”) motion to dismiss NML’s Complaint, including
 10 Argentina’s memorandum of points and authorities, which is also currently set to be
 11 heard in Courtroom 6 of the United States District Court for the Central District of
 12 California, 312 North Spring Street, Los Angeles, California on June 30, 2014 at
 13 1:30 p.m. Argentina’s motion will be filed today, May 15, 2014.

14 SpaceX has been sued as a co-defendant of Argentina, a sovereign foreign
 15 state, and the *Comisión Nacional de Actividades Espaciales* of Argentina
 16 (“CONAE”), and NML brings its claim for execution on the alleged contracts
 17 between CONAE and SpaceX (the “Contracts”) against all defendants. (Cpt. ¶¶ 3,
 18 7, 37.) SpaceX hereby incorporates by reference the arguments raised in
 19 Argentina’s motion to dismiss and the supporting memorandum, and respectfully
 20 requests that the Court dismiss the case with prejudice for lack of subject matter
 21 jurisdiction under the Foreign Sovereign Immunities Act (“FSIA”) for the reasons
 22 stated in that motion.

23 As demonstrated in Argentina’s motion to dismiss, the Complaint is barred
 24 by the FSIA both because NML improperly seeks to reach the alleged property of
 25 CONAE, and because the Contracts are immune from execution under the FSIA.
 26 The FSIA’s bar as to Argentina and CONAE necessarily leads to dismissal of this
 27 action against SpaceX, too, as NML’s claim against SpaceX is predicated on the
 28 Court’s ability to reach the Contracts. If NML cannot execute upon the Contracts,

1 then there can be no creditor's claim against SpaceX. Cal. Code Civ. Proc. §
2 708.210 (creditor's claims only available as to "property interest[s] or debt[s]" that
3 can be "applied to the satisfaction of [a] money judgment.") For the reasons set
4 forth herein, and in Argentina's motion to dismiss, the Court should dismiss NML's
5 complaint with prejudice.

6 This motion is made following the conference of counsel pursuant to L.R.
7 7-3 which took place on May 8, and May 12, 2014.

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9 Dated: May 15, 2014 COOLEY LLP

10
11 /s/ William P. Donovan, Jr.
12 William P. Donovan, Jr.

13 Attorneys for Defendant
14 Space Exploration Technologies Corp.
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